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of the suit been postponed until after the statute went into effect, it would have been unnecessary to do so, for the remedy by motion to transfer under the amended statute would have been clearly adequate.

[Ed. Note.—For other cases, see 17 Va.-W. Va. Enc. Dig. 961, 972.]

11. Taxation (§ 864*)—Inheritance Tax, Not on Entire Estate, but Property Received by Beneficiary, "Property or Interest" and "Estate" Being Used Interchangeably.—Acts 1916, c. 484, relating to assessment of inheritance taxes, places the tax, not on the value of the entire estate, but on the value of the property received by the beneficiary; the word "estate" referring, not to the entire estate, but to the estate or property passing to the several beneficiaries, and the words "property or interest" and "estate" are used interchangeably to convey the same meaning.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Estate. For other cases, see 17 Va.-W. Va. Enc. Dig. 961, 972.]

Sims, J., dissenting.

Appeal from Circuit Court, Clarke County.

Suit by Agnes Mayo Carter, executrix of Thomas Nelson Carter, deceased, and another, against the Commonwealth of Virginia, in which the Auditor of Public Accounts intervened. From the decree therein, defendants appeal. Affirmed.

The Attorney General and *E. Warren Wall*, of Richmond, for appellants.

W. Brydon Tennant and *R. W. Carrington*, both of Richmond, for appellees.

HETH v. COMMONWEALTH.

Jan. 22, 1920.

[102 S. E. 66.]

1. Taxation (§ 861*)—Inheritance Tax Governed by Law in Force at Time of Decedent's Death.—The amount of inheritance tax was governed by Tax Bill, section 44, as amended by Acts 1916, c. 484, in force at time of decedent's death, though the tax was not reported or assessed until such statute was further amended by Acts 1918, c. 238.

2. Taxation (§ 861*)—Remedy for Erroneous Inheritance Tax Assessment Governed by Law in Force When Proceeding Is Instituted.—Proceeding for redress against erroneous inheritance tax assessment was governed by tax bill, section 44, as amended by Acts 1916, c. 484, and Acts 1918, c. 238, subds. 11-13, the law in force at time

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

proceeding was instituted, though decedent died before amendment of 1913 took effect and while amendment of 1916 was in force; and though amount of tax was governed by amendment of 1916, in view of Code 1919, § 2385 et seq.

3. Constitutional Law (§ 43 (2)*)—One Using Statutory Remedy for Erroneous Assessment Cannot Complain of Want of Adequate Remedy.—Heir after having instituted proceeding for redress against erroneous inheritance tax assessment under Tax Bill, section 44, as amended by Acts 1916, c. 484, and Acts 1918, c. 238, cannot be heard to complain that he has not had an adequate remedy.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 221.]

4. Taxation (§ 900 (5)*)—Court Will Correct Assessment and Determine True Amount.—Where relief is sought under the statutes from alleged erroneous tax, the court, if statute under which tax is imposed is valid, should correct any improper assessment, determine the true amount of the tax, and enter judgment therefor.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 105, 106.]

Error to Circuit Court, Montgomery County.

Petition by Stockton Heth, Jr., against the Commonwealth, for redress against alleged erroneous inheritance tax assessment. Judgment affirming assessment dismissing petition, and petitioner brings error. Affirmed.

H. C. Tyler, of Radford, for plaintiff in error.

The Attorney General, for the Commonwealth.

WITHERS et al. *v.* JONES' EX'X et al.

Jan. 22, 1920.

[102 S. E. 68.]

1. Taxation (§ 900 (1)*)—Correction of Inheritance Tax Assessment within Jurisdiction of Circuit Court.—Circuit court of city of Richmond had jurisdiction to entertain bill for correction of inheritance tax assessed under Acts 1916, c. 484.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 105, 106.]

2. Taxation (§ 895 (6)*)—Expenses of Administration, Debts, and Exemptions to Be Deducted before Inheritance Tax Is Completed.—Widow and children to whom testator has devised and bequeathed his estate are entitled, prior to assessment of inheritance tax, under Acts 1916, c. 484, to have the expenses of administration and debts, if any, deducted from the gross value of the estate, and from net amount remaining, each is entitled to an exemption of \$15,000, and

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.